IN THE HIGH COURT OF BOMBAY AT GOA
****

FIRST APPEAL NO 138 OF 2000

Shri John Francis, s/o
Frederick Francis,
British Citizen, Construction
Engineer by profession, at
present r/o "Ebenezer",
Gaunsavaddo, Sodiem Siolim,
Bardez, Goa. ...Appellant.

Versus

1. Shri R. Biju Kumar,
s/o Raghav Panekar,
r/o Gauravaddo,
Calangute, Bardez, Goa,

2. United India Insurance
Co. Ltd., Mapusa Branch,
Mapusa, Goa, and

3. Radhakrishna Madhuvan,
s/o Madhuvan, owner
of the vehicle GA 01 V 2118,
r/o Gauravaddo, Near
Kismet Mehal, Calangute. ...Respondents.

Shri V. P. Thali, advocate for the appellant.

Shri E. Afonso, advocate for respondent no.2.

CORAM : F. I. REBELLO, J.

DATE : 18th July, 2003.

ORAL JUDGMENT

The appellant partly aggrieved by the Award of the Claims Tribunal awarding compensation in the sum of Rs.75,000/- only, has the impugned the said Award. There is no challenge insofar as the accident is concerned. The only issue is in the matter of compensation.

2. There is no dispute that at the time of the accident the claimant was aged 60 years. He had come down

from England. It was his case that he wanted to start a business. On account of the accident he had a fracture on the Tibia-Fibula - lower 1/3rd and also fracture of the surgical neck. The Claims Tribunal insofar as the amount spent, considering the evidence, allowed the various claims as can be seen from a reading of paragraph 12 of the Award. The case of the appellant was that on account of the accident he could not complete his house in time and had to pay an additional sum of Rs.30,000/- as worked out by him, for tenanted premises on account of delay in construction. There was no challenge insofar as this amount is concerned. The evidence further discloses that the house was completed only in December, 1997. The lease agreement was produced through the evidence of A.W.4. It is the case of the appellant that the house could not be constructed on time on account of the accident. Appellant himself is an engineer and in these circumstances, he was supervising the house construction and in the absence of his supervision there was delay in construction. It is also his case that there was increase in the cost of material and that if he had personally supervised the work without engaging a person for these activities he would have saved a sum of at least Rs.1,20,000/-.

Considering the delay to the house construction and incidental increase a further sum of Rs.20,000/- can be considered to offset the loss occasioned. Therefore, the appellant will be entitled to an additional amount of

Rs.50,000/-. The impugned Award to that extent is liable to be modified inasmuch as instead of a sum of Rs.75,000/-, it is increased to Rs.1,25,000/-. The said amount will carry interest at the rate of 8%. Insofar as the interest on the amount of Rs.75,000/- is concerned, it will be from the date of the claim application till the amount was paid and insofar as the balance Rs.50,000/- is concerned, it will be from the date of application till payment. The additional amount to be deposited or paid within a period twelve weeks from today. The Award stands modified accordingly.

The Appeal is partly allowed. No order as to costs.

F. I. REBELLO, J.

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